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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,781	07/27/2001	Richard J. Roll	2125.002USU	8798

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,781

Applicant(s)

ROLL ET AL.

Examiner

F. Ryan Zeender

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/22/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9, 11, 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Hager et al.

Hager et al. disclose or inherently teach the limitations of the claims including: requesting a term of offer related to items (*see for example paragraph [0032]*); obtaining, by a host provider (*i.e., web services system 100,200*), the requested term of offer from at least one product/service provider (*i.e., store*); adjusting a second offer in response to obtaining the requested term of offer (*by dispensing a target coupon when a competitive product is identified; see paragraph [0033], lines 6-7*), presenting the offers to a data requestor device (*i.e., computer; see paragraph [0033]*).

Re claims 13-15, the "pricing model" is the identification of sales items and target coupons in Hager et al.

Claim Rejections - 35 USC § 103

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hager et al., in view of an obvious design choice.

Hager et al. disclose all the limitations of the claim except the step of adjusting the second term of offer for the item comprising determining if the host provider itself offers the item.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hager et al. to have the step of adjusting the second term of offer for the item comprise determining if the host provider itself offers the item, as it is obvious for a service company to check its own resources before seeking others to provide the service, in order to maximize profits.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hager et al. in view of Trubey et al. '930.

Hager et al. disclose all the limitations of the claim except varying the second term of offer to include a price margin for the host provider.

Trubey et al. teach that it is common for host sites to receive a "commission or referral fee" (See paragraph [0008]) for helping buyers find products on the Internet.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hager et al. to have the second term of offer include a price margin for the host provider, in view of Trubey et al., in order to pay the host provider for its value added service.

Response to Arguments

Applicant's arguments filed 9/22/2004 have been fully considered but they are not persuasive for the reasons given in the Advisory Action mailed 7/13/2004, the Interview Summary mailed 5/18/2004, and the Final Office Action mailed 12/19/2003.

The Examiner has reconsidered the prior art and has withdrawn his previous 35 USC 103 rejection in favor of a 35 USC 102 rejection. Specifically, Hager **does** teach adjusting a second term of offer for **said item**, if the terminology, "said item" is interpreted broadly to mean, for example, a type of automobile. Then, "said item" does not necessarily mean one single item, but could mean a particular type of vehicle such as a Ford Explorer. So, in this light, when Hager discloses "a target coupon will be dispensed when a **competitive product** is identified", the competitive product is equated with applicant's "said item" in the second term of offer. **It is suggest that the applicant change the terminology, "item" to -single item-- throughout the claims to obviate the above Hager rejection.**

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113 .

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326 for before-final communications.

F. Zeender
Patent Examiner, A.U. 3627
November 29, 2004


F. RYAN ZEENDER
PRIMARY EXAMINER
11/29/04